United Nations CAT/C/THA/CO/1

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the initial report of Thailand*

1. The Committee against Torture considered the initial report of Thailand (CAT/C/THA/1) at its 1214th and 1217th meetings (CAT/C/SR.1214 and 1217), held on 30 April and 1 May 2014, and adopted the following concluding observations at its 1239th meeting (CAT/C/SR.1239), held on 16 May 2014.

A. Introduction

2. The Committee welcomes the submission of the initial report of Thailand (CAT/C/THA/1) and the common core document (HRI/CORE/THA/2012). However, it regrets that the report was submitted with a delay of five years, which prevented it from monitoring the implementation of the Convention in the State party during that time. The Committee also notes that while the report generally follows the guidelines on the form and content of initial reports (CAT/C/4/Rev.3), statistical information on the implementation of the Convention in the State party is lacking.

3. The Committee appreciates the open and constructive dialogue with the high-level delegation of the State party and the additional information provided by the delegation.

4. The Committee is deeply concerned at the declaration of martial law throughout Thailand, since its recent dialogue with the State party. It emphasizes that the State party should adhere strictly to the absolute prohibition of torture and ensure that the application of martial law does not, under any circumstances, contradict the rights guaranteed in the Convention. In that regard, the Committee draws the State party's attention to paragraphs 11 and 12 of the present concluding observations, which deal with the state of emergency in the southern border provinces as well as the three special laws currently in effect in Thailand. The Committee urges the State party to ensure that the application of martial law throughout Thailand does not, under any circumstances, contradict the rights guaranteed in the Convention.

B. Positive aspects

5. The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, in 2008.

* Adopted by the Committee at its fifty-second session (28 April–23 May 2014)

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6. The Committee welcomes the following legislative measures taken by the State party in areas of relevance to the Convention, including the adoption of:

(a) The Penal Code Amendment Act (Nos. 19 and 20), in 2007, and (No. 21), in 2008;

(b) The Criminal Procedure Code Amendment Act (Nos. 25 and 26), in 2007;

(c) The Domestic Violence Victim Protection Act, in 2007;

(d) The Anti-Trafficking in Persons Act, in 2008;

(e) The Juvenile and Family Court and Procedures Act, in 2010.

7. The Committee notes with appreciation the voluntary pledges and commitments made in the context of the universal periodic review that Thailand will amend its laws to bring them into line with the international human rights instruments, including ensuring that criminal laws are in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee also welcomes the invitation to the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment to visit the State party during this year.

C. Principal subjects of concern and recommendations

Declarations under articles 1, 4 and 5 of the Convention

8. The Committee is concerned about the interpretative declarations that the State party made at the time of accession to the Convention, on 2 October 2007, with regard to articles 1, 4 and 5 of the Convention, in which the State party declares that it will, inter alia, interpret the term "torture" in conformity with the Penal Code currently in force in the State party, which does not contain a definition of torture. The Committee notes that the State party had also declared at the time that it would "revise its domestic law to be more consistent with [articles 1, 4, and 5] of the Convention at the earliest opportunity" and that it had reiterated that commitment in its initial report (para. 60) as well as during the dialogue. The Committee further notes that, in its common core document, the State party indicated that a number of reservations made at the time of ratification to other human rights treaties had been withdrawn further to commitments it had made during the universal periodic review.

Noting that the declarations raise questions as to the State party's overall implementation of its treaty obligations, and appreciating the statement made by the representative of the State party that the possibility of withdrawal was being discussed, the Committee recommends that the State party consider withdrawing the declarations to articles 1, 4 and 5 of the Convention promptly so as to ensure it is in compliance with the requirements of the Convention and gives effect to all the provisions of the Convention.

Definition and criminalization of torture

9. While noting that Section 32, paragraph 2, of the Constitution of Thailand prohibits acts of torture, the Committee is concerned about the absence of a definition of torture and that torture is not recognized as an offence, in accordance with the Convention, in the State party's legal system. In addition, the Committee is concerned that the draft amendment to the Penal Code with regard to torture, (a) does not reflect the non-exhaustive list of purposes for which torture may be inflicted nor does it include discrimination as a purpose; (b) provides for a higher degree of pain and suffering than that set forth in article 1 of the Convention; (c) contains a definition of "public official" that is more limited than that set

forth in the Convention; (d) does not explicitly prohibit affirmative defences to the crime of torture; and (e) does not explicitly prohibit the application of a statute of limitations. The Committee appreciates the delegation's reassurance that the draft can still be revised.

The shortcomings cited above seriously hamper the implementation of the Convention by preventing the prosecution of torture in Thailand. The Committee notes the State party's commitment to revise its Penal Code and Criminal Procedure Code, including the draft amendment, to define torture and include the offence of torture, in line with articles 1 and 4 of the Convention (arts. 1 and 4).

Recalling the Committee's general comment No. 2 (2008) on implementation of article 2 by States parties, the Committee urges the State party to revise its legislation without delay, in order to:

(a) To adopt a definition of torture that covers all the elements contained in article 1 of the Convention;

(b) To include torture as a separate and specific crime in its legislation and ensure that penalties for the crime of torture are commensurate with the gravity of the crime, as required by article 4, paragraph 2, of the Convention;

(c) To ensure that acts amounting to torture are not subject to any statute of limitation.

Allegations of widespread use of torture and ill-treatment

10. While noting with appreciation the State party's public statement that it fully recognizes the importance of the Convention and its acknowledgement of the Committee's concerns about the need for impartial and independent investigations, the Committee remains seriously concerned about the continued allegations of widespread torture and ill-treatment of detainees, including as a means of extracting confessions, by the military, the police and prison officials in the south and other parts of the country.

The Committee calls upon the State party to take immediate and effective measures to investigate all acts of torture and ill-treatment and to prosecute and punish those responsible with penalties that are commensurate with the gravity of their acts. In addition to those measures, the State party should unambiguously reaffirm the absolute prohibition of torture and publicly condemn all practices of torture, accompanied by a clear warning that anyone committing such acts or otherwise complicit or participating in torture will be held personally responsible before the law and will be subject to criminal prosecution and appropriate penalties.

Situation in the southern border provinces

11. The Committee expresses concern at the numerous allegations of torture and ill-treatment during the state of emergency in the southern border provinces and notes that the state of emergency has been prolonged and that the exercise of fundamental human rights has been restricted (arts. 2, 4, 11, 12, 13, 15 and 16).

The State party should ensure that the absolute and non-derogable nature of the prohibition of torture is incorporated into its legislation, and that the legislation is strictly applied, in accordance with article 2, paragraph 2, of the Convention, which stipulates that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. Moreover, the State party should assess the need for the special laws, bearing in mind that the conditions for declaring an emergency and enacting emergency laws are strictly and narrowly defined and should be limited to exceptional circumstances.

Special laws

12. While noting that the delegation of the State party cited 2,889 bombing incidents in the south and thousands of civilian and military personnel casualties, the Committee remains seriously concerned about the numerous, ongoing and consistent allegations about the routine use of torture and ill-treatment by security and military officials in the southern border provinces to obtain confessions. That situation is exacerbated by the application of three special laws, namely the 1914 Martial Law Act, the 2005 Emergency Decree and the 2008 Internal Security Act, which provide broad emergency powers to the security and military forces outside of judicial control and reinforce a climate of impunity for serious human rights violations. The Committee is gravely concerned that:

(a) The special laws provide for enlarged executive powers of administrative detention, without adequate judicial supervision, and weaken fundamental safeguards for persons deprived of their liberty. Under section 15 of the Martial Law Act and section 12 of the Emergency Decree, a suspect can be held for as long as 37 days, without a warrant or judicial oversight, before being brought before a court. Also, there is no requirement for a detainee to be brought before a court at any stage of his or her detention, nor is the location of detention always disclosed;

(b) Safeguards against torture, which are provided by the law, and regulations are allegedly not respected in practice and, in particular, detainees are often denied the right to contact and receive visits by family members promptly after their deprivation of liberty; also, some necessary safeguards, such as the right to contact a lawyer and to be examined by an independent doctor promp ly upon deprivation of liberty, are not guaranteed in law or in practice.

(c) The special laws, in particular section 7 of the Martial Law Act and section 17 of the Emergency Decree, explicitly limit the accountability of officials enforcing the state of emergency by granting immunity from prosecution for serious human rights violations, including acts of torture, in violation of the provisions of the Convention. The Committee is concerned at the death in custody of Imam Yapa Kaseng and Sulaiman Naesa, which highlights the obstacles to bringing perpetrators to justice (arts. 2, 4, 12, 13 and 15).

The State party should, as a matter of urgency, take vigorous steps to review without delay its existing emergency laws and practice and repeal those incompatible with its obligations under the Convention, in particular by ensuring that:

(a) Detainees held without charge under security laws are brought in person before a court;

(b) Detainees taken into custody are permitted to contact family members, lawyers and independent doctors promptly following deprivation of liberty, both in law and in practice, and that the provision of these safeguards by the authorities is monitored effectively.

(c) No immunity from prosecution is granted to officials who commit offences associated with human rights violations, including torture and ill-treatment. Furthermore, the State party should carry out prompt, impartial and thorough investigations, bring the perpetrators of such acts to justice and, if convicted, impose sentences commensurate with the gravity of the acts committed;

(d) No one is coerced into testifying against themselves or others or confessing guilt and no such confession is accepted as evidence in court, except against a person accused of torture or other ill-treatment, as evidence that the confession or other statement was made.

Fundamental legal safeguards

13. The Committee is seriously concerned that, in practice, all arrested and detained persons are not provided with all the fundamental legal safeguards from the very outset of their deprivation of liberty. Such legal safeguards include, but are not limited to, maintenance of an official register of detainees, the right of detainees to be informed of their rights, the right to promptly receive independent legal assistance and independent medical assistance and to contact relatives, impartial mechanisms for inspecting and visiting places of detention and confinement, and the availability of judicial and other remedies to detainees and persons at risk of torture and ill-treatment that would allow them to have their complaints promptly and impartially examined, to defend their rights and to challenge the legality of their detention or ill-treatment. The Committee is further concerned that information requested on monitoring safeguards was not provided, including information on the success of habeas corpus petitions (art. 2).

The State party should take effective measures to ensure, in law and in practice, that all detainees are afforded all fundamental legal safeguards from the very outset of their detention, including the rights to have prompt access to an independent lawyer and an independent medical doctor, to notify a relative, to be informed of their rights at the time of detention, including about the charges laid against them, to be registered at the place of detention and to appear before a judge within a reasonably period of time, in accordance with international standards. The State party should also take the necessary measures to provide an effective free legal aid system and put in place measures to monitor the practice of all law enforcement and security officials to ensure that those safeguards are provided in practice as well as in law. The State party should take disciplinary or other measures against officials responsible in cases where those safeguards are not provided to persons deprived of their liberty.

Enforced disappearance

14. While welcoming the signature by the State party of the International Convention for the Protection of All Persons from Enforced Disappearance and the delegation's statement that ratification is envisioned, the Committee remains seriously concerned at:

(a) The absence of a definition of enforced disappearance and the absence of the recognition of enforced disappearance as an offence in the domestic legislation;

(b) The continuing and numerous alleged cases of enforced disappearance, in particular against human rights, anti-corruption and environmental activists as well as witness of human rights violations, as revealed by the recent case of the disappearance of Pholachi Rakcharoen (known as "Billy), a human rights defender from Karen, Myanmar. It has been reported that enforced disappearance is used as a method of harassment and repression against human rights defenders by the security and military forces, in particular in the highly militarized counter-insurgency context in southern Thailand.

(c) The failure to resolve most cases of enforced disappearance, provide remedy to the relatives of missing persons, and prosecute those responsible, as demonstrated in numerous cases, including the disappearance of Somchai Neelaphaijit, Jahwa Jalo and Myaleng Maranor. The Committee notes with concern the general allegations made by the Working Group on Enforced or Involuntary Disappearances that no case of enforced disappearance has led to the prosecution or conviction of the perpetrator and that reparation, including compensation has been extremely limited in Thailand (A/HRC/22/45, paras. 457–466) (arts. 2, 4, 12, 14 and 16).

The State party should take all the necessary measures to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance, in particular by:

(a) Taking legal measures to ensure that enforced disappearance is a specific crime in Thai domestic law, with penalties that take into account the grave nature of such disappearances;

(b) Ensuring that all cases of enforced disappearance are thoroughly, promptly and effectively investigated, suspects are prosecuted and those found guilty are punished with sanctions proportionate to the gravity of their crimes, even when no body or human remains are found. The Committee reminds the State party that where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities are required to undertake an investigation, even if there has been no formal complaint;

(c) Ensuring that any individual who has suffered harm as the direct result of an enforced disappearance has access to information about the fate of the disappeared person as well as to fair and adequate compensation, including any necessary psychological, social and financial support. The Committee reminds the State party that, for the family members of a disappeared person, enforced disappearance may constitute a breach of the Convention;

(d) Adopting measures to clarify the outstanding cases of enforced disappearance and facilitating the request by the Working Group on Enforced or Involuntary Disappearances to visit the country (A/HRC/22/45, para. 471);

(e) Accelerating the process for ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

Impunity

15. While noting the State party's position that current Thai laws are adequate for punishing public officers who commit acts of torture, the Committee remains deeply concerned at the climate of de facto impunity for acts of torture committed in the State party in view of the following:

(a) The lack of prompt and impartial investigation of allegations of torture and ill-treatment committed by law enforcement personnel. When torture allegations are investigated, the agency of the accused usually conducts the investigation and charges are often dismissed;

(b) Delays in investigating cases of torture;

(c) Discrepancies regarding the numerous allegations of torture and ill-treatment by State officers and the very low number of complaints brought to the authorities, which might indicate a lack of confidence in the police and judicial authorities and a lack of awareness of their rights on the part of victims;

(d) The almost total absence of criminal sanctions against responsible officers, public prosecutors. Furthermore, on occasion, judges disregard defendants' claims that they have been tortured or classify the acts in question as less serious offences (arts. 2, 4, 12 and 13).

In view of widespread impunity, the State party should, as a matter of urgency:

(a) Publicly condemn practices of torture and give a clear warning that anyone committing such acts, or otherwise complicit, acquiescent or participating in torture, will be subject to criminal prosecution and upon conviction, appropriate penalties;

(b) Take all necessary measures to ensure that all allegations of torture or ill-treatment are promptly, thoroughly and impartially investigated by a fully

independent civilian body, that perpetrators are duly prosecuted and, if found guilty, convicted with penalties that are commensurate with the grave nature of their crimes;

(c) Suspend officers suspected of committing acts of torture during the investigation of allegations of torture and ill-treatment;

(d) Ensure that military personnel are tried in civilian courts for acts of torture and similar offences;

(e) Establish an independent complaints system for all persons deprived of their liberty.

Gender-based violence

16. While welcoming the efforts made by the State party to combat violence against women, in particular by criminalizing domestic violence under section 4 of the 2007 Domestic Violence Victim Protection Act, the Committee remains concerned about:

(a) The high prevalence of gender-based violence, in particular sexual and domestic violence in Thailand;

(b) The low level of prosecution for sexual and domestic violence, mainly due to obstacles inherent in the legal framework and the unresponsive attitude of the police and the judiciary towards such violence. The Committee is also concerned that, as domestic violence is a "compoundable" offence, the victim must lodge a complaint in order for the offence under section 4 of the 2007 Domestic Violence Victim Protection Act to be prosecuted and that the arriving at a settlement in cases of domestic violence has priority over the victim's well-being and safety, under section 15 of the Act. As a result, the Committee regrets that, in practice, domestic violence is treated as a private matter rather than a serious public criminal offence;

(c) Discriminatory rules of evidence in legal procedures of rape cases, which result in re-victimization and stigmatization of victims as well as lack of prosecution for the perpetrator. The relevant legislation fails to regulate the admissibility of evidence;

(d) Barriers in accessing legal protection and redress for vulnerable groups, including Malay Muslim women in the southern border provinces (arts. 2, 14 and 16).

The State party should further strengthen its efforts to address all forms of gender-based violence and abuse, in particular sexual and domestic violence, through legislative, judicial, administrative and other measures, including policy and social measures, in particular, by:

(a) Revising the relevant provisions of the Penal Code, the Criminal Procedure Code and the Domestic Violence Victim Protection Act, with a view to facilitating complaints by victims, informing them about recourse available and strengthening the legal assistance and psychosocial protection systems for victims of domestic violence;

(b) Promptly, effectively and impartially investigating all allegations of sexual and domestic violence with a view to prosecuting those responsible. The State party should remove obstacles to the prosecution of perpetrators of domestic violence and ensure that police officers refusing to register such complaints are appropriately disciplined.

Trafficking

17. While noting the efforts made by the State party to prevent and combat trafficking in persons, including the adoption of the Human Trafficking Prevention and Suppression Act,

in 2008, the Committee is concerned at the numerous reports of trafficking in persons for the purpose of sexual exploitation or forced labour. The Committee shares the concerns raised by the Special Rapporteur on trafficking in persons, especially women and children, with regard to such issues as the lack of capacity and willingness of law enforcement authorities to properly identify trafficked persons, the arrest, detention and summary deportation of trafficked persons, the lack of adequate support for the recovery of trafficked persons in shelters and the low rate of prosecution and delays in prosecuting trafficking cases (arts. 2, 12, 13 and 16).

The State party should intensify its efforts to prevent and combat trafficking in persons, by providing protection for victims, including shelters and psychosocial assistance and by conducting prompt, impartial investigation of trafficking with a view to prosecuting and punishing perpetrators with penalties appropriate to the nature of their crimes. The Committee encourages the State party to take all necessary measures to fully implement the recommendations contained in the report of the Special Rapporteur on trafficking in persons, especially women and children, on her mission to Thailand (A/HRC/20/18/Add.2, para. 77).

Human rights defenders

18. The Committee is concerned at the numerous and consistent allegations of serious acts of reprisals and threats against human rights defenders, journalists, community leaders and their relatives, including verbal and physical attacks, enforced disappearances and extrajudicial killings, as well as by the lack of information provided on any investigations into such allegations (arts. 2, 12, 14 and 16).

The State party should take all the necessary measures to: (a) put an immediate halt to harassment and attacks against human rights defenders, journalists and community leaders; and (b) systematically investigate all reported instances of intimidation, harassment and attacks with a view to prosecuting and punishing perpetrators, and guarantee effective remedies to victims and their families. In that regard, the Committee recommends that the Thai authorities provide the family of Somchai Neelaphaijit with full reparation and take effective measures aimed at the cessation of continuing violations, in particular by guaranteeing the right to truth (general comment No. 3, para. 16).

Witness and victim protection

19. While noting that the 2003 Witnesses Protection Act provides general or special protection measures for witnesses in criminal cases through the Department of Rights and Liberties Protection and the Department of Special Investigation under the Ministry of Justice, the Committee remains concerned at:

(a) The numerous and consistent cases of intimidation and attacks against witnesses to and victims of human rights violations. The Committee expresses serious concern at the disappearance of Abdullah Abukari while under the protection of the Department of Special Investigation. Mr. Abukari was allegedly a witness in the case of the enforced disappearance and murder of Somchai Neelaphaijit and he was tortured by police;

(b) The absence of an effective mechanism and an independent protection agency to ensure protection of and assistance to witnesses and victims of torture and ill-treatment. In addition to the concerns raised by the State party about loopholes in the provision of protection to petitioners in torture cases under the current Act (CAT/C/THA/1, para. 144), other allegations before the Committee raise question as to fairness on the part

of agencies in charge of witness protection, of which the majority of the staff are former police officers;

(c) The lack of guidance and training for officers assigned to witness protection;

(d) The absence of protection for defendants, under the current Act;

(e) Cases of complainants and witnesses in torture cases who later face charges of criminal defamation (arts. 2, 11, 12, 13 and 15).

The State party should revise its legislation and practices to ensure that witnesses and victims of human rights violations, including of torture and enforced disappearance, and members of their families are effectively protected and assisted, in particular by:

(a) Amending the Witness Protection Act to cover all proceedings, including civil and administrative proceedings, and to expand the category of persons that can receive protection;

(b) Ensuring that perpetrators do not influence protection mechanisms and that they are held accountable;

(c) Taking steps to inform the public of the Witness Protection Act and to allow witnesses in torture cases to invoke protective services;

(d) Abolishing criminal defamation or providing protection for complainants and witnesses in torture cases from criminal defamation.

Non-refoulement

20. While welcoming the State party's continued commitment to hosting refugees in need of international protection on its territory, the Committee is concerned at reports of refoulement of asylum seekers, as well as the absence of a national legal framework regulating expulsion, refoulement and extradition, consistent with the requirements of article 3 of the Convention. Moreover, noting the information about the State party's effort to provide humanitarian assistance to Rohingya refugees coming into the State party, the Committee expresses concern at reports of some potential refugees being turned back at sea. It also regrets the lack of information on the number of cases of refoulement, extradition and expulsion carried out and on the number of instances and types of cases for which the State party has offered and/or accepted diplomatic assurances or guarantees. (art. 3)

The Committee recommends that the State party adopt appropriate legislation and procedures to comply with the principle of non-refoulement and to protect refugees and asylum seekers, in line with article 3 of the Convention, in particular by:

(a) Amending the Immigration Act and establishing a national asylum system to provide the legal framework required to address the situation of refugees and asylum seekers. Moreover, the State party should take the necessary measures, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), to review its procedures for determining refugee status;

(b) Providing protection and rehabilitation support to victims rescued from human smugglers' camps in southern Thailand and defining the temporary protection regime and related rights granted to Rohingya refugees and stateless persons, including protection from refoulement;

(c) Acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Immigration detention

21. The Committee is concerned at the use of lengthy and, in some cases, indefinite detention in immigration detention centres for asylum seekers and migrants who enter the State party undocumented, as well as at the lack of an independent and systematic review of such detention decisions and the restrictive use of alternatives to detention for asylum seekers (arts. 3, 11 and 16).

The State party should review its detention policy with regard to asylum seekers and give priority to alternatives to detention. The State party should end indefinite detention for asylum seekers and migrants and guarantee them access to independent, qualified and free legal advice and representation, in order to ensure that persons in need of international protection are duly recognized and refoulement is prevented.

Conditions of detention

22. While acknowledging that the State party has taken a number of measures to improve conditions in detention centres, including the allocation of additional resources to improve the situation of the immigration detention facilities in Songkhla province, the Committee remains seriously concerned at the extremely high levels of overcrowding and harsh conditions prevailing in detention facilities, including immigration detention centres. Such conditions include insufficient ventilation and lighting, poor sanitation and hygiene facilities and inadequate access to health care. The Committee expresses its concern at reports that the lack of medical care has contributed to the spread of diseases and deaths in custody, as in the cases of Rohingya and the Lao Hmong in immigration detention centres, which were raised by the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Reports before the Committee indicate incidents of continuing violence in detention, including sexual violence by prison guards or other prisoners with the acquiescence of the authorities. The Committee also regrets the lack of information about the so-called "white prison" policy, which is alleged to result in further restrictions on the rights and freedom of detainees (arts. 11 and 16).

The State party should strengthen its efforts to improve prison conditions in order to end any cruel, inhuman or degrading treatment or punishment, in particular by:

(a) Taking all necessary measures to remedy the high rate of prison overcrowding, in particular by instituting alternatives to custodial sentences, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);

(b) Ensuring the basic needs of persons deprived of their liberty with regard to sanitation, medical care, food and water. The State party should consider transferring responsibility for health issues in prisons from the Department of Corrections to the Ministry of Health;

(c) Taking measures to prevent violence in prison and to investigate all such incidents in order that the suspected perpetrators may be brought to trial and victims may be protected.

Use of shacking and solitary confinement

23. While noting that the State party has reviewed and reduced the use of shackles in detention facilities, the Committee expresses concern at: (a) the continued use of instruments of restraint, such as shackles, as disciplinary measures; and (b) the lack of

adequate safeguards and monitoring mechanisms on the use of such restraining devices. The Committee also regrets the use of solitary confinement, often in unhygienic conditions and with physical neglect, of up to three months, as a mean of punishment (art. 16).

The State party should ensure that the use of restraints is avoided or applied under strict medical supervision, and that any such act is duly recorded. In particular, the State party should end the use of permanent shackling of death-row prisoners, the use of shackles as a punishment and prolonged solitary confinement. Furthermore, the use of solitary confinement should be limited as a measure of last resort and for as short a time as possible, under strict supervision and with the possibility of judicial review.

Monitoring and inspection of places of deprivation of liberty

24. The Committee notes that visits to detention facilities can be undertaken by all agencies, including non-governmental and international organizations, upon request and with prior permission. It further notes the delegation's statement that the State party hopes to become a party to the Optional Protocol to the Convention by 2015. Nonetheless, the Committee is concerned at the lack of systematic, effective and independent monitoring and inspection of all places of detention (arts. 11 and 12).

The State party should:

(a) Ensure the effective monitoring and inspection of all places of detention through regular and unannounced visits by independent national and international monitors, including non-governmental organizations, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment;

(b) Make the recommendations of the monitors public and follow up on the outcome of such systematic monitoring;

(c) Collect information on the place, time and periodicity of visits, including unannounced visits, to places of deprivation of liberty, and on the findings and the follow-up to the outcome of such visits;

(d) Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish a national preventive mechanism.

National Human Rights Commission

25. The Committee notes with interest that the National Human Rights Commission of Thailand (NHRCT) has broad competence to receive and investigate complaints of human rights violations; undertake the monitoring of places of detention; examine laws which contradict human rights principles and subsequently submit those cases to the court for deliberation and ruling. The Committee is nonetheless concerned at reports that the authorities have not followed up on the findings and recommendations made by the NHRCT, and about reports that persons deprived of their liberty do not file complaints with the NHRCT when they visit detention places, reportedly out of fear of retaliation by prison officials (art. 2)

The State party should ensure that the NHRCT effectively executes its mandate in accordance with the principles relating to the status of national institutions (the Paris Principles) (General Assembly resolution 48/134, annex), in particular by strengthening the roles of the NHRCT to carry out unannounced visits to detention facilities, during which they are able to take confidential statements from detainees; implementing the recommendations made by the NHRCT and guaranteeing the independence and pluralism of its composition. In that regard, the Committee

recommends that the State party consider reviving the previous procedure for selecting commissioners to the NHRCT with a view to increasing the number of commissioners and that it allow for the participation of representatives of non-governmental human rights organizations.

Training

26. The Committee takes note of the information, included in the State party's report and supplemented during the dialogue, about training on human rights for State officers. However, the Committee regrets that: (a) there is insufficient practical training to all professionals directly involved in the investigation and documentation of torture as well as to medical and other personnel involved with detainees and asylum seekers on the provisions of the Convention and on how to detect and document physical and psychological sequelae of torture; (b) there is a lack of training on the absolute prohibition of torture in the context of instructions issued to security personnel; and (c) there is a lack of information on the monitoring and evaluation of the impact of the training programmes in reducing incidents of torture and ill-treatment (art. 10).

The State party should:

(a) Provide mandatory training programmes to all public officials, in particular members of the police and prison staff, to ensure that they are fully aware of the provisions of the Convention, that any breach of the Convention is not tolerated, but investigated and perpetrators brought to trial;

(b) Provide specific training to all relevant personnel, including medical personnel, on how to identify signs of torture and ill-treatment, including on the use of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);

(c) Strengthen its efforts to implement a gender-sensitive approach for the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment;

(d) Assess the effectiveness and impact of training programmes and education on the incidence of torture and ill-treatment.

Redress, including compensation and rehabilitation

27. While noting the provisions of Section 420 of the Civil and Commercial Code and the Compensation and Expenses for Injured and Accused Persons Accused Act that victims may claim redress for human rights violations, the Committee is concerned about: (a) the absence of systematic provision by the State of rehabilitation and redress to victims for the physical and psychological consequences of torture, including appropriate medical and psychological care;, (b) the obstacles for victims of torture and ill-treatment to receive redress, including adequate compensation and rehabilitation; and (c) the insufficient information provided by the State party on redress and compensation measures, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or their families, since the entry into force of the Convention for the State party (art. 14).

The State party should take the necessary steps to ensure that victims of torture and ill-treatment receive redress, including fair and adequate compensation and the means for as full rehabilitation as possible. The Committee draws the State party's attention to its general comment No. 3 (2012) on the implementation of article 14 by State parties, in which it elaborates on the nature and scope of State parties' obligations to provide full redress to victims of torture.

Data collection

28. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement and prison personnel, as well as on deaths in custody, extrajudicial executions, enforced disappearances, gender-based violence and trafficking.

The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, deaths in custody, extrajudicial executions, enforced disappearances, gender-based violence and trafficking, as well as on the means of redress, including compensation and rehabilitation, provided to the victims. Such data should be submitted to the Committee when compiled.

Other issues

29. The Committee recommends that the State party make the declarations provided for in articles 21 and 22 of the Convention in order to recognize the competence of the Committee to receive and consider communications.

30. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

31. The Committee requests the State party to provide, by 23 May 2015, follow-up information in response to the Committee's recommendations relating to: (a) ensuring or strengthening legal safeguards for detained persons; (b) conducting prompt, impartial and effective investigations of allegations of torture by law enforcement personnel; and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 12, 13, 15 and 18 of the present concluding observations.

32. The Committee invites the State party to submit its next report, which will be its second periodic report, by 23 May 2018. The Committee invites the State party to agree, by 23 May 2015, to follow the optional reporting procedure in preparing that report. Under this procedure, the Committee will transmit to the State party of a list of issues prior to the submission of the report and the State party's replies to the list of issues will constitute its next periodic report under article 19 of the Convention.